United States Court of Appeals

for the Second Circuit

APPELLANT'S REPLY BRIEF

ORIGINAL

77-1189

To be Argued by
Frederick H. Block

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P/S

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

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UNITED STATES OF AMERICA,

Appellee,

v.

LAWRENCE FRIEDMAN,

Appellant.

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APPELLANT'S REPLY BRIEF

UNITED STATES COURT OF APPEALS
FILED
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SECOND CIRCUIT

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APPELLANT'S REPLY BRIEF

I

The government's brief on the duress issue has failed to discuss the crucial point on which the trial judge erred. He misconstrued the conversation between Friedman and his wife which led to the revealing of their source. Hall was present at the conversation (A 277) and did not contradict Friedman's version of the conversation. Mrs. Friedman said "They are going to send me to Rikers" to which Friedman replied "I know, they told me" (A 104 - A 105).

As Judge Lasker had observed, the mere mention of Rikers was coercive (A 171 - A 172) and it is conceded that Rikers was mentioned in Mrs. Friedman's presence (Govt. Br. p. 6). Further, the government has not challenged Friedman's contention (Appt's Br. p. 29) that it was not necessary to send Mrs. Friedman to Rikers because there were holding cells at DEA headquarters.

In light of all this it must be obvious that Friedman was led to give his source because of the impermissible pressure put on his wife.

II

On the broken promise issue the government omits entirely any mention of the admitted fact that Friedman gave ten names of narcotics dealers to the police with whom he had been directed to cooperate, as a result of which the police were able to make three buys.

Judge Lasker in questioning Smith (Appt's Br. p. 20) and in stating his view of the waiver which

Friedman signed (Appt's Br. p. 34) took positions which are completely at variance with his rejection of Friedman's broken promise claim. In that light his express crediting of Flynn's testimony must be held to be clearly erroneous. He could not entertain the views he expressed when he questioned Smith and commented on the waiver and still accept what Flynn said. This is particularly so because Flynn's testimony was vague and equivocal in many respects as pointed out in appellant's main brief, pp. 21-22, 34-37.

CONCLUSION

In light of the authorities cited in appellant's main brief at page 28, the rulings below are clearly erroneous because on the entire evidence it is apparent that mistaken results have been reached. Accordingly, for the reasons hereinabove set forth and set forth in appellant's main brief, the judgment below should be reversed and the indictment dismissed.

Respectfully submitted,

Frederick H. Block
Attorney for Defendant-
Appellant.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss:

ARLINE LEVY being duly sworn, deposes and says; I am not a party to the action; am over the age of 18 years and reside in Queens, New York.

On the 7th day of June, 1977 I mailed a copy of the within Appellant's Reply Brief to the United States Attorney for the Southern District of New York at 1 St. Andrews Plaza, New York, N.Y. where he then had his office by depositing a copy of same properly enclosed in a prepaid, addressed wrapper and deposited same in a depository maintained by the United States Postal Service for said purpose within the State of New York.

Sworn to before me this
7th day of June, 1977.

Arline Levy

Frederick H. Block

FREDERICK H. BLOCK
Notary Public, State of New York
No. 24-0002724
Qualified in New York County
Commission Expires March 30, 1979